tation of profit, it is difficult to discover any element of a sale that is lacking. If the club is a corporation, this is true beyond the possibility of a doubt. Consequently, many courts have held clubs liable without going further. *State* v. *Lockyear*, 95 N. C. 633; *State* v. *Essex Club*, 53 N. J. Law, 99; *People* v. *Bradley*, 11 N. Y. Supp. 594.

The question, however, is not simply whether there is a sale, but whether there is a sale of the sort the legislature intended to forbid. Much can doubtless be said on both sides of this question. On the one hand, it is urged that as the sale of liquor by clubs is of so different a nature from the ordinary bar-room sale, a statute which is manifestly aimed directly at the latter should not be taken to include the former without express words. Black on Intoxicating Liquors, § 142. On the other hand, it may be contended, perhaps even more forcibly, that, as the language of the statute fits the case so closely, and liquor-selling by clubs is so notorious, the legislature would have expressly reserved it from the operation of the statute if the intention had not been to include it.

In jurisdictions where the former view is adopted, the club, in order to be protected, must of course be a *bona fide* organization with other objects than the mere dispensing of liquor. Courts which take the latter view have often failed to notice this distinction. For example, in *State* v. *Neis*, 13 S. E. Rep. 225 (N. C.), the court said, "If the gentlemen composing the Cosmopolitan Club of Asheville can be exempted from the liquor tax by the simple device of treating themselves as unorganized tenants in common of a stock of spirituous liquors, and employing an agent to furnish drinks to any members of their club and their friends, by selling at cost, the same can be done by any five hundred or five thousand patrons of a bar-room." This conclusion by no means follows from the premises. If the club is a mere device to avoid the liquor law, it would nowhere be protected. See *Rickart* v. *People*, 79 Ill. 85.

THE LIABILITY OF A PUBLIC TREASURER. — There is considerable difference of opinion in the cases as to the extent of the liability of a public treasurer. Does the bond ordinarily required of such an official make his liability greater than that imposed by the common law on all fiduciaries? Two recent cases are of interest, as the courts arrive at opposite conclusions on this question after reviewing the authorities. In *State* v. *Copeland*, 34 S. W. Rep. 427 (Tenn.), on a bond with the usual conditions for faithful performance of duty and for paying over the public money as required, etc., it was held that the official was not liable for a loss not due to any negligence on his part. There is nothing in such a bond to increase the common law liability. In reaching this conclusion the court is strongly influenced by considerations of public policy, especially by the fear that the better class of men will not accept office when doing so involves the assumption of so great a liability. In *Fairchild* v. *Hedges*, 44 Pac. Rep. 125, the Supreme Court of Washington (one judge dissenting) held that a county treasurer is liable on the undertaking in his bond for money deposited in a bank that fails, though due care was exercised in its selection. While the court thinks this view is in accord with sound public policy, it rests the decision on the terms of the bond.

The two main points on which a difference of opinion is to be found in the authorities are illustrated by these cases. Whatever opinion one may have on the public policy involved in this question, a discussion of it is

out of place here. The court is called upon to construe a solemn instrument, the form of which is prescribed by the legislature, so that there is even less reason for considering public policy than where the bond is given between private individuals. It will not do to say, as was done in *State* v. *Copeland, supra,* that the bond is merely exacted to obtain the liability of the sureties, as well as that of the principal, which would regularly fall on a fiduciary. The bond is an absolute undertaking, to be void on the happening of the conditions contained in it, and the court has no more power so to construe its nature away than it has to add a condition that it shall be void so long as due care is exercised by the obligor in the discharge of his duties. The law does not concern itself with the extent of the obligation a man chooses to assume, though in imposing a duty upon him it has regard for his capacity. Durfree on Official Bonds, § 197. How strictly the courts taking this view will abide by its logical consequences remains to be seen. In *Fairchild* v. *Hedges, supra,* a disposition is shown to limit it, as was done in *United States* v. *Thomas,* 15 Wall. 537, to a liability like that of the common carrier of freight. This, however, does not seem justifiable. Durfree on Official Bonds, § 199. For the four views that have been held on this vexed question, see Mechem on Public Officers, §§ 298 *et seq.*

RECENT CASES.

BILLS AND NOTES — INDORSEE AFTER MATURITY. — The defendant made a note payable to one C. C forged an exact reproduction of this note, and indorsed the forgery after maturity to a third party, to whom it was paid by the defendant in the belief that it was the genuine note. The original note was indorsed after this payment to the plaintiff, who now brings action. *Held,* that he took the note subject to the equities against C, and could not recover. *Leach* v. *Funk,* 66 N. W. Rep. 768 (Ia.).

This case has no precedent. The court seems wrong in regarding these facts as giving rise to an equity attaching to the note and barring the plaintiff's right. The issue and collection of the forged instrument was an independent transaction, in which the defendant might well base a set-off as against C, but this is not an equity to be available against an innocent indorsee, even after maturity.

CARRIERS — SLEEPING CAR COMPANY — LIABILITY FOR BAGGAGE. — The plaintiff, a passenger in a Wagner sleeping car, on her arrival at her destination, intrusted her hand baggage to the porter to carry to the waiting-room, which was about a hundred yards from the train. A sealskin cape having been lost during this removal, *held* that the sleeping car company is a common carrier of baggage so intrusted to its care, and is therefore liable to the plaintiff for this loss. Ross, J., dissenting. *Voss* v. *Railroad,* 43 N. E. Rep. 20 (Ind.).

The decision of the majority seems clearly erroneous. The dissenting opinion takes the only tenable position on these facts; namely, that while the sleeping car company's agreement includes assistance to the passenger in alighting, beyond that point the porter cannot bind the company to any liability, much less that of a common carrier. The porter was merely the servant of the passenger.

CONSTITUTIONAL LAW — INTERPRETATION OF STATUTES — LEGISLATIVE POWERS. — An act of 1854 provided that vacancies in certain offices in Philadelphia should be filled by vote of the city councils until the next city election. *Held,* that an act of 1867, providing that the words "next city election" should be construed to mean the election at which a successor would have been elected if there had been no vacancy, was unconstitutional, as seeking to compel the courts to construe the previous act contrary to its meaning. *Commonwealth ex rel. Roney* v. *Warwick, Mayor,* 33 Atl. Rep. 373 (Pa.). See NOTES.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — KILLING GAME — SALE OUTSIDE STATE. — *Held,* that the ownership of wild game within the limits of a State,